

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

WILDEARTH GUARDIANS,  
Plaintiff,

V.

U.S. OFFICE OF SURFACE  
MINING, RECLAMATION AND  
ENFORCEMENT *et al.*,  
Federal Defendants,

and

STATE OF MONTANA, SPRING  
CREEK LLC, NATIONAL  
MINING ASSOCIATION,  
Defendant-Intervenors.

NORTHERN PLAINS RESOURCE  
COUNCIL INC. *et al.*  
Plaintiffs,

V.

JEWELL *et al.*,  
Federal Defendants,

and

STATE OF MONTANA *et al.*,  
Defendant-Intervenors.

CV 14-13-BLG-SPW-CSO

**JOINT MOTION FOR  
ENLARGEMENT OF TIME FOR  
COMPLIANCE WITH REMEDY  
ORDER**

CV 14-103-BLG-SPW-CSO

Northern Plains Resource Council and Western Organization of Resource Councils (hereinafter, “Northern Plains”), Plaintiffs in civil action CV 14-103-BLG-SPW-CSO, and Federal Defendants hereby jointly move for an adjustment to the Court’s January 21, 2016 Opinion and Order, ECF No. 135 (“Order”), to allow for an additional fourteen days for public comment on the environmental assessment (“EA”) now being prepared by the Office of Surface Mining Reclamation and Enforcement (“OSMRE”) in response to the Order. *See* ECF No. 145 (Federal Defendants’ Status Report on EA progress). Because of the tight timetable under which OSMRE is operating, it is necessary to extend the 240-day remedy period (which ends on Saturday, September 17, 2016) by a similar amount of time. Specifically, movants request that the deadline be extended to Monday, October 3, 2017, for a total remedy period of 256 days. OSMRE would administratively extend the time for public comment on the EA from July 5, 2016 to July 19, 2015.

Good cause exists for the requested enlargement of time. Northern Plains notes that additional time for public comment is needed due to public interest in the project, including but not limited to interest by Northern Plains’ members, and because the current deadline for public comment on the EA falls one day after the July 4 holiday weekend. Federal Defendants further note that enlarging the comment period necessitates extending the overall remedy period because of the

tight timetable for compliance. As the record reflects, Federal Defendants stressed in its objection to one aspect of the Magistrate Judge's Report and Recommendation – *see* ECF No. 129 (Report and Recommendation), ECF No. 122 (Federal Defendants' objections) – that the 180 days recommended for additional NEPA analysis was insufficient, and that 240 days was needed to properly complete the analysis, amid other pressing agency obligations. As previously reported, OSMRE has developed a timeline of milestones for the process to ensure that each step is afforded appropriate time. ECF No. 136 ¶ 1. Every week in the process is critical.

Undersigned counsel has conferred with counsel for Plaintiff WildEarth Guardians, who indicates that WildEarth Guardians has no objection to a two-week enlargement of the comment period, but opposes extending the 240-day deadline, on the view that additional time for public comment is not “good cause” for enlargement of the remedy period. Movants respectfully disagree and submit that granting the motion would have the desirable effect of advancing the second of NEPA's “twin aims,” that is, public participation. *See Balt. Gas & Elec. Co. v. Natural Res. Defense Council*, 462 U.S. 87, 97 (1983). Counsel for Defendant-Intervenors indicate that their respective clients do not oppose the motion.

In sum, and for good cause set forward herein, movants respectfully request that paragraph 4 of section V of the Order (ECF No. 135) be modified to allow 256 days for remedy compliance.

Respectfully submitted this 24th day of June, 2016.

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U.S. Department of Justice  
Environment and Natural Resources Division

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*Counsel for Plaintiffs in Civil*

*Action CV 14-103-BLG-SPW-CSO*

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing is being filed with the Clerk of the Court using the CM/ECF system, thereby serving it on all parties of record, this 24th day of June, 2016.

/s/ Brad A. Bartlett